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15 IN THE UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA
17

18 UNITED STATES OF AMERICA,
19 Plaintiff,
20 v.
21 ALDEN EVERETT NUNEZ-ROSALES,
22 Defendant.
23

24 CASE NO. 1:23-MJ-00049-BAM
25

26 STIPULATION REGARDING EXCLUDABLE
27 TIME PERIODS UNDER SPEEDY TRIAL ACT;
28 ORDER

DATE: May 30, 2023
TIME: 2:00 p.m.
COURT: Hon. Sheila K. Oberto

1 This case is set for a preliminary hearing on May 30, 2023. The parties agree and stipulate to
2 continue the preliminary hearing until June 5, 2023, at 2:00 p.m. before the duty magistrate. Defense
3 counsel has continued to be engaged in discussions and further investigation and needs additional time
4 to conclude that process. Additionally, the parties are engaged in discussions and investigation of issues
5 related to a possible pre-indictment resolution, as well as consultation with or seeking consultation with
6 experts. There are complex factual and legal issues the parties are exploring and believe that additional
7 time to conclude that process will be productive in moving the case forward.

8 If the case is continued, this Court should designate a new date for the preliminary hearing.

9 *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be
10 “specifically limited in time”).
11

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for preliminary hearing on May 30, 2023.
2. By this stipulation, defendant now moves to continue the preliminary hearing until **June 3, at 2:00 p.m.** and to exclude time between May 30, 2023, and June 5, 2023, under Local Code
3. The parties agree and stipulate, and request that the Court find the following:
 - a) The parties are discussing and conducting further investigation into pre-indictment matters and need additional time to conclude.
 - b) Counsel for defendant desires additional time to consult with his client, conduct further investigation, and further discuss charges with the government.
 - c) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.
 - d) The government does not object to the continuance.
 - e) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held “no later than 14 days after initial appearance if the defendant is in custody,” unless the defendant consents and there is a “showing of good cause.” Here, the defendant consents and there is good cause as set forth herein.
 - f) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in an indictment or trial within the original dates prescribed by the Speedy Trial Act.
 - g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which an indictment must be filed and within which a trial must commence, the time period of May 30, 2023 to June 5, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant’s request on the basis of the Court’s finding that the ends of justice served

1 by taking such action outweigh the best interest of the public and the defendant in a speedy
2 indictment/trial.

3 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
4 Speedy Trial Act dictate that additional time periods are excludable from the period within which an
5 Indictment must be filed and a trial must commence.

6 IT IS SO STIPULATED.

7 Dated: May 22, 2023

PHILLIP A. TALBERT
United States Attorney

9 /s/ JUSTIN GILIO
10 JUSTIN GILIO
11 Assistant United States Attorney

12 Dated: May 22, 2023

13 /s/ E. MARSHALL HODGKINS
14 E. MARSHALL HODGKINS
15 Counsel for Defendant
16 ALDEN EVERETT NUNEZ-
17 ROSALES

18 ORDER

19 IT IS SO ORDERED.

20 DATED: 5/24/2023

21 
22 THE HONORABLE SHEILA K. OBERTO
23 UNITED STATES MAGISTRATE JUDGE